



MEMORANDUM

TO: Mayor & City Council

**FROM: Councilmember Dave Cortese
Councilmember Chuck Reed
Councilmember Judy Chirco
Councilmember Nancy Pyle**

SUBJECT: Evergreen East Hills Vision Strategy

DATE: December 12, 2006

APPROVED:

DATE:

RECOMMENDATION

1. Adopt a resolution upholding the certification of the Environmental Impact Report by the Planning Commission as prepared for the Evergreen East Hills Vision Strategy (EEHVS) Project.
2. Direct staff to develop the funding agreement at earliest possible date with target for Council action of February 6, 2007 with the assumptions on amenities, schools, updated area development policy, phasing and implementation as noted in **Attachment A**, to be used by staff as negotiating points.
3. Direct staff to bring back to City Council at a study session to be scheduled no later than end of January 2007, a complete set of draft documents, including a draft funding agreement.
4. Direct staff to bring back to City Council at a study session to be scheduled no later than end of January 2007, full and complete responses to the questions and comments in **Attachment B** along with responses to questions and concerns posed by the Council and the community at the December 12th City Council Meeting.
5. Accept the Estimated Time Frame contained in the Supplemental Memo dated December 8, 2006, including the schedule of community meetings, however, requiring target date for report back to council for final action to be February 6, 2007.

BACKGROUND

At the November 29, 2006 Rules Committee meeting, the committee entertained a request for deferral to 2007 of the EEHVS by Councilmembers Cortese, Reed, Chirco and Pyle as well Planning staff, citing the absence of critical information related to the funding agreement, school impact, transportation funding and industrial conversion, to name a few. The committee agreed to a one week deferral and directed staff to agendize for the December 12th City Council a framework for discussion of outstanding issues related to the EEHVS. At the December 6, 2006 Rules Committee meeting, the committee reviewed the framework and agreed to the points as the beginning of a policy discussion and also agreed to defer the majority of the EEHVS items until Spring 2007. The purpose of this memorandum is to recommend the City Council approve certification of the EIR as well as give direction to staff on major items intended to complete the EEHVS and bring this package to Council in a timely manner that gives certainty to the city, the property owners, and the public.

ANALYSIS

The Evergreen East Hills Vision Strategy Final EIR meets the requirements of CEQA by disclosing the significant environmental effects of the project, identifying feasible ways to mitigate the significant effects, and describing reasonable alternatives to the project. The Final EIR complies with the substantive and procedural requirements of the CEQA guidelines for projects of regional significance. The Final EIR has been completed in compliance with the requirements of CEQA. It also represents the independent judgment and analysis of the City of San Jose.

CONCLUSION

Council's approval of the final EIR will enable the EEHVS to continue moving forward without committing the City to any position with regard to changes to the General Plan or land use entitlements or related funding requirements.

ATTACHMENT A

Staff has set forth seven areas for Council's discussion on December 12th. Below represents additional direction recommended for staff's integration into the draft Funding Agreement.

The Property Owners' Proposal

Upon completion and staff analysis of the following studies, reports, and documents, staff shall make a final, supplemental recommendation to council on the land use and general plan changes requested by developers. Staff should draw the best concepts from the Developer Proposal, the current Planning Dept staff recommendation, the Task Force (Majority) Proposal and other individual and group proposals made during the EEHVS Task Force process to arrive at a final recommendation. The remaining studies, reports, and documents are:

- A proposed Funding Agreement accounting for a minimum of \$225 million in private funding;
- Independent Review of Financial data;
- Independent Review of Industrial Land Conversion Study;
- Evergreen Development Policy;
- Agreement with Evergreen School District;
- Agreement with Mt. Pleasant School District;
- Agreement with East Side Union High School District;
- Prop 1b Recommendations as available from MTC and State of California.

Traffic

Staff should bring back to council language to be incorporated into the Funding Agreement which requires Prop 1b monies for the 101 Corridor Project to be used as an offset to the Community Facilities District and earmarked to augment identified needs which would otherwise be unfunded within the EDP area. The EDP shall require a level of Service "D" be maintained for all intersections impacted by pool unit allocations which have not currently exceeded that level.

Affordable Housing

Draft affordable housing agreement/plan (page 12, draft EPD) must be brought forth for Council review taking into account the need for more detailed requirements with respect to the 20% affordable units in the Arcadia property and 40% affordable on the EVC property, and the need to integrate those details into the Funding Agreement assumptions.

Schools

Accept the identified needs assessments provided to the Task Force by the Evergreen School District and the Mt Pleasant School District in formulating the remaining legal documents such as the Funding Agreement. As to the East Side Union High School District (ESUHSD) it will be necessary to satisfy the population growth ESUHSD is already experiencing in the southern portion of their district. Therefore, in consideration of the current planning, this process should not conclude without a satisfactory financial resolution between the property owners and the ESUHSD which should include either a reservation of land for a new high school on one of the opportunity sites or, in the alternative, a specific site location elsewhere in the ESUHSD jurisdiction firmly identified by the high school district (not a site on industrial-zoned land or land outside the UGB).

Amenities and Public Facilities

The current Amenity Descriptions as proposed by staff (EEHVS Binder to Council: Tab J: Appendix D) is inadequate because it includes items that would already receive funding, it references projects needing additional funding without indicating the amount of necessary funding and it does not specify which projects would occur as turnkey. Staff should utilize the following assumptions as an underlay to the draft funding agreement:

1. The current ten million dollars allocated in Phase 2 of the draft Evergreen Development Policy update is insufficient to finance the Tier 1 projects identified unless these projects are stipulated to occur turnkey, or unless additional dollars are allocated to Phase 2. Therefore, the Phasing/Implementation plan and the Funding Agreement should take into account the full need for funding. Specifically those projects are :
 - a. Evergreen Little League Complex – to be housed on Legacy Property and consist of four fields
 - b. Arcadia Community Center
 - c. Thompson Creek Trail
 - d. Fowler Creek Park Phases 2 &3
 - e. Pleasant Hills Multiuse Building/Community Center w/Sports Courts, Ball Fields & Open Space
2. Phasing schedule in draft Evergreen Development Policy should be better articulated with the need to bring amenities and other infrastructure on-line concurrent with development. The following phases should be added:
 - Prior to obtaining building permits for more than 19% of the opportunity sites
 - Prior to obtaining building permits for more than 29% of the opportunity sites
 - Prior to obtaining building permits for more than 39% of the opportunity sites

Remaining amenities prioritization should be aligned with the recommendations adopted by the Task Force by majority vote.
3. Pedestrian Bridges at Eastridge and Thompson Creek (or Nieman area) and from Pleasant Hills to Lake Cunningham Park should be accounted for by either public or private funding sources.
4. Land for the Evergreen Southeast Branch Library (part of library bond approved by the voters in 2000) should be specifically identified prior to adoption of the Funding Agreement, without sacrificing any existing parkland or community centers and without any offset to PDO/PIO fees. Bond funds originally identified for land acquisition should be appropriated in the library CIP and earmarked for completion/expansion of this project.
5. Terms of any joint use agreements must be brought forward in draft form to the City Council prior to approval of the Funding Agreement for any facility recommended for joint use by the City and any school district. These agreements must be reviewed with local residents, neighborhood associations, and SNI NAC, and meet the approval of both the City and the District.
6. A minimum of 45 acres set-aside for parkland and greenbelt open space on the Pleasant Hills Golf Course site is required. This may include perimeter buffer areas, neighborhood parks, playgrounds, sports fields, community centers, etc., but not educational or public safety facilities.
7. Land for Fire Station 21 (part of the Public Safety Bond approved by the voters in 2002) is being donated by the property owners. Therefore, bond funds originally identified for land acquisition should be appropriated in the Public Safety CIP and earmarked for completion/expansion of public safety projects within the EDP area.

Employment Land Retention

Staff should bring back to council a supplemental memo once the Independent Review of Industrial Land Conversion Study (to be examined on a citywide level) is complete which should include final staff comments on the Independent Review of Financial Data noted below.

Fiscal Impacts

Staff should bring back to council an Independent Review of Financial Data along with the Independent Review of Industrial Land Conversion Study (noted above) prior to finalizing the Funding Agreement.

ATTACHMENT B

The following pages contain a comprehensive set of questions assembled from various sources in order to increase understanding of the EEHVS. Staff should provide written responses to these questions as well as those that arose at the December 6, 2006 EEHVS Community Meeting held at LeyVa Middle School and should incorporate suggestions as appropriate into the final draft documents presented to Council at the next EEHVS Council study session.

1. Respond to the speculation of ESUHSD seeking land outside the UGB or properties currently zoned industrial, and inform the Council on the consequences of either of these two possibilities.
2. Please explain if the following text on page 34 of the draft EDP is legally binding: *“The Opportunity Site Owners shall have no entitlement to develop their Opportunity Sites in the event that they fail to enter into an agreement with the City and Santa Clara Valley Transportation Authority, or fail to make payment according to such an agreement, for the owners’ funding of the construction of the Traffic Improvements to Hwy 101 as described herein and in the manner and timing specified herein.”*
3. What are the implications of requiring green building standards as opposed to suggesting such standards? (EEHVS Binder to Council: Tab J: Appendix C)
4. Does the library masterplan recommendation of a Southeast Branch Library in Evergreen already anticipate additional growth?
5. Identify “other locations” for transportation improvements as noted in item AE (EEHVS Binder to Council: Tab J: Appendix D).
6. Specify the amount of funding required to complete Lake Cunningham Regional Skate Park (EEHVS Binder to Council: Tab J: Appendix D: Item C)
7. Can concepts such as one-way HOV lanes, Bus Rapid Transit and the phasing of Capitol Expressway improvements be explored so as to mitigate traffic circulation while Highway 101 improvements are underway?
8. Can community review of the Evergreen Development Policy (see page 34 of draft EDP) be scheduled to occur sooner than before Phase IV begins, such as an annual review from the date of the first building permit being pulled?
9. Please explain the reference “preserved area of private recreation-designated land” (Page 5, Planning Director’s memo to City Council).
10. Please provide a grand total of all sources of funds for any improvement as part of the EEHVS including: Developer Fees, Proposition 1B, C&C, Fire Bond (for new fire station at Pleasant Hills), Library Bond (for Southeast Branch Library), Proposition 40 (for regional skatepark), etc.

Hello Mike & Laurel -

I'm sorry, but here are additional questions for tonight:

1. How will the CFD be structured (overview should be fine)?
2. What is the formula for calculating TIF for the background pool units?
3. What is the process around collecting and applying these funds, and can these funds offset the mandatory traffic requirements after they have started construction?
4. Will all new development be subject to an additional MFD to fund ongoing M&O of the amenities?
5. Can you please report out the recommendations from the other boards and commissions who have commented on the task force recommendations?

Thanks again for your help and organization of this community information.

- Jim

Jim F Zito/PEI/PEC

12/05/2006 01:53 PM

To "Mena, Michael" <Michael.Mena@sanjoseca.gov>, "Prevetti, Laurel" <Laurel.Prevetti@sanjoseca.gov>

cc

Subject Questions for the EEHVS Community Meeting [Link](#)

Hello Mike and Laurel -

Last Thursday, about 20 members of the previous task force and community met to discuss Planning's concern for the current lack of information for the City Council to go forward with a decision on the EEHVS. On behalf of these community members, I am forwarding a list of questions that we hope can be addressed at tomorrow night's community meeting, or when the appropriate information becomes available. I'm sure some of these were already planned to be addressed in your presentation tomorrow evening.

Thanks again for all your help.

a. Amenities questions:

1. What are the dollar costs of amenities?
2. Where is the independent financial analysis of amenities?
3. How does the new developer funding (\$225M) affect the proposed list?
4. How will amenities be phased in over time?
5. Given phasing, what are the current costs given what the community (H) proposed?
6. How is inflation accounted for in dealing with paying for amenities over a phased period of time?
7. How can the City guarantee amenities will be paid for if highway improvements increase in cost?
8. Can we guarantee the actual list of amenities, rather than a static total dollar figure (\$225M)?

9. What are the operations and maintenance provisions for amenities, and how will this be paid for over time?
10. What are the contractual arrangements with the developers for money allocation at each stage of the process?

b. Industrial conversion questions:

1. How will industrial conversion on the Campus Industrial site affect the city's tax revenue stream?
2. How will industrial conversion affect a jobs/housing balance, which is a city principle?
3. How will industrial conversion affect service demands in Evergreen?
4. Once this land is converted to residential, where will the city find other industrial land options in this area to create a counter-commute and to attract industry?
5. How can we protect expansion possibilities for Hitachi?

c. Transportation improvement questions:

1. How much does ITS cost?
2. Currently, what will the "mandatory" traffic improvements (hwy 101 +) cost, and what guarantees are there against inflation?
3. If state money pays for the highway improvements, can reimbursed funds go into paying for amenities, rather than into the City's General Fund?
4. What will be the effect of having four lanes vs. two lanes on proposed major traffic arteries?
5. What is the fiscal analysis of VTA for Capitol Expressway in terms of its being a traffic corridor and its effect on Arcadia site?

d. Open space questions:

1. Per Planning's proposal, what guarantees can be put in place for open space on the Pleasant Hills golf course site to remain so in perpetuity?
2. Will there be public access to the private open space?
3. How will maintenance be paid for in the private open space?
4. What is the ramification of 40% private open space on PHGC from a city impact perspective, and how can we ensure that this land doesn't flip?

e. Sunshine guideline questions:

1. Has the public been adequately informed about all of these issues on a timely basis?
2. The public has not seen the funding agreement and independent fiscal analysis, when can these be made available?
3. How can we ensure that the remaining process be open and balanced?

4. In terms of new data received from developers and independent sources, how can the community be keep informed of these changes, and in unit numbers and associated reduction in developers' fees?
5. Has the council been open with the public concerning council members' meetings with developers?
6. Once all the information is obtained and analyzed, how can the community be re-engaged before a final proposal is presented to the City Council?

f. High School land reservation questions: - The last 6 questions should be answered by ESUHSD before a complete proposal can be made.

1. How does a potential ESUHSD boundary change fit in terms of the City Council's EEHVS guiding principle to have neighborhood schools?
2. If the ESUHSD chooses Edenvale or RY Ranch for a land option in the future, how will this affect the City's policies concerning industrial lands and Greenline?
1. What is the ESUHSD position about land reservation? (Currently they maintain they do not need land inside the opportunity sites, but rather further south east.)
2. What is the expected need for a new high school based on EEHVS units?
3. What is the maximum capacity of each high school?
4. What is the acceptable boundary changes?
5. What is the ESUHSD's long-term policy concerning land options for a new high school?
6. Has the school district identified future land options?

g. Pool unit questions:

1. What are the ramifications of proposed pool unit wording?
2. There is currently no nexus for pool allocations and amenities, and can we get a nexus study?
3. Will excess pool allocations be put into the pool immediately?

h. The EVCC College site:

1. Is the proposed grocery and commercial activity for the college site compatible with the school board's mission and the EEHVS guiding principles and desired outcomes?
2. Is this appropriate use for development on the college site in terms of the City's needs and General Plan guidelines?

Jim Zito

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"Mena, Michael" <Michael.Mena@sanjoseca.gov>

11/30/2006 03:56 PM

To "Mena, Michael" <Michael.Mena@sanjoseca.gov>

cc "Prevetti, Laurel" <Laurel.Prevetti@sanjoseca.gov>, "Baty, John"
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Subject Evergreen East Hill Vision Strategy Community Meeting

Dear Interested Parties:

RE: EEHVS community meeting

PURPOSE: To update the community on the EEHVS process since the November 8, 2006, Planning Commission Hearing

Please join City staff for a community on the Evergreen East Hills Vision Strategy on Wednesday, December 6, 2006, at 6:30 p.m.

The meeting will be held at Leyva Middle School located at 1865 Monrovia Drive in San Jose.

If you have any questions please feel free to contact me by email or at the phone number provided below.

Thank you,

Mike Mena
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